

HUMAN SERVICES BOARD

INTRODUCTION

DISCUSSION

In one case the Franklin County Family Court, in an Order dated January 27, 2005, found the petitioner to owe arrearages of \$11,408.12. The Court did not make any payment order (apparently due to the petitioner's limited income).

Nonetheless, the petitioner disputes the amount of arrearages and indicates he plans to appeal that decision to the Franklin county Superior Court.

In the second case, the Windsor County Family Court held in an Order dated March 11, 2004 that the petitioner was required to pay \$10.00 per month toward an arrearage that the Court determined to be \$1,076.67. The petitioner indicated that he is also in the process of appealing that order.

On August 11, 2004 OCS sent the petitioner a form notice regarding possible trustee process to collect the above arrearages. This is the Department action that triggered the petitioner's instant administrative appeals in both cases. At the fair hearing the hearing officer and OCS advised the petitioner that neither OCS nor the Human Services Board have the power or jurisdiction to modify or waive any arrearages found by the Family Court.

ORDER

The petitioner's appeals are dismissed because the Board lacks subject matter jurisdiction to hear them.

REASONS

Several statutes govern child support establishment and collection in the state of Vermont. See 15 V.S.A. Chapter

11. The Board has repeatedly held that under those statutes all grievances regarding the establishment of an amount of child support and the methods used to collect it are exclusive matters for the court that has jurisdiction to establish and enforce child support orders. See, e.g., Fair Hearing Nos. 17,895 and 19,426.

The Board has also held that it has jurisdiction over OCS administrative decisions only in very limited cases. See, e.g., Fair Hearing Nos. 16,055 and 19,393. These cases are mainly limited to the jurisdictional mandate found in the statute governing Board decisions, which reads, in pertinent part, as follows:

An applicant for or a recipient of assistance, benefits or social services from . . . the office of child support . . . may file a request for a hearing with the human services board. An opportunity for a hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his . . . receipt of assistance, benefits, or services . . . or because the individual is aggrieved by agency policy as it affects his or her situation.

3 V.S.A. 3091(d)

OCS's own regulations describe appeals to the Human Services Board as "general grievances", and give as examples a delay or failure to receive a support allocation or an

improper distribution of support to recipients of OCS services. See OCS Regulations 2802 and 2802A.

Even if the petitioner has a valid reason to excuse or modify the child support arrearages he owes, these are issues that can only be considered and resolved by the court with subject matter jurisdiction over the underlying action. The Board cannot obtain jurisdiction of any claim in lieu of the Family Court. To do so would be plainly inconsistent with the federal Uniform Interstate Family Support Act. See 15B V.S.A. §§ 101 *et seq.* Inasmuch as consideration of the petitioner's grievances in this matter lie exclusively with the family courts that issued the underlying support decrees, they must be dismissed.

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